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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION
- - -

Daniel Grand,)
)
Plaintiff,)
)
vs.) Case No.
) 1:22-cv-01594
City of University Heights,)
Ohio, et al.,)
)
Defendants.)

- - -
Tuesday, October 31, 2023
- - -

Videoconference deposition of MICHAEL DYLAN
BRENNAN, taken remotely, via Zoom, pursuant to
notice, commencing at 9:39 p.m., on the above
date, before Deborah C. Furey, Registered
Professional Reporter and Notary Public in and
for the State of Ohio.

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Miguel Banuelos, Videographer

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2

THE VIDEOGRAPHER: We are now on the

3

record. This begins Video Number 1 in the

4

deposition of Mayor Michael Brennan, in the

5

matter of Daniel Grand versus City of

09:38

6

University Heights, Ohio, et al. In the

7

United States District Court for the

8

Northern District of Ohio, Eastern Division.

9

Today is October 31st, 2023 and the time

10

is 9:39 a.m.

09:39

11

This deposition the being taken

12

virtually at the request of Quainton Law.

13

The videographer is Miguel Banuelos with

14

Magna Legal Services, and the court reporter

15

is Debi Furey of Magna Legal Services.

09:39

16

Will counsel and all parties present

17

state their appearances and whom they

18

represent?

19

MR. CLIMER: My name is James Climer, I

20

represent the defendants.

09:39

21

MR. QUANTON: Eden Quainton for

22

plaintiff Daniel Grand.

23

MR. GROSS: Jonathan Gross for plaintiff

24

Daniel Grand.

25

THE VIDEOGRAPHER: Will the court

09:39

1 opening a shul in his house? 10:49

2 A. A resident of the community, Ben
3 Feldman, forwarded me the invitation. And he said
4 this was going around to numerous people in the
5 community, the orthodox community, and that, you 10:49
6 know, he was -- he thought the city should do
7 something about it, so.

8 Q. Do you recall when you received that
9 communication from Mr. Feldman?

10 A. I believe it was January of 2021. The 10:49
11 exact date I don't recall.

12 If I had the document in front of me, it
13 probably has the date on it. It would have been
14 shortly before we issued a cease-and-desist letter
15 to Mr. Grand, and that would also have a date on 10:50
16 it.

17 Q. We're going to look at those documents
18 in a second.

19 Before we look at the documents, you
20 said when you looked at whatever Mr. Feldman had 10:50
21 said -- sent you, it mentioned opening a shul, is
22 that right?

23 A. Well, the document says what it says,
24 and that's -- I believe that's what it said, but,
25 you know, the communication has been produced in 10:50

1 discovery. 10:50

2 Q. I want to ask you a question, though,
3 what -- do you know what -- what is a shul to you?

4 A. Well, a -- it's any number of things.

5 You know, it can be a small gathering place, yes, 10:50

6 you know. But it can also be, you know, in the
7 case of like Aleksander Shul, they've called it a
8 shul, but they've also called it the great shtetl.

9 And, you know, it's much larger than a shul or a
10 shtetl. 10:50

11 You know, in the case of Aleksander
12 Shul, I was in the basement of that building at
13 one time with at least hundred 120 or 130 other
14 people.

15 And, you know, so -- so in my 10:51
16 experience, a shul has come to mean, you know,
17 that which is a small gathering for a small group
18 of folks or it can be a very large group. And a
19 shul is interchangeable with a school and/or a
20 synagogue, depending on context. 10:51

21 Q. So if a shul can be a small gathering,
22 what was it that made you think that Mr. Grand's
23 use of the word shul was anything other than a
24 small gathering?

25 A. Well, because he built out his home on a 10:51

1 triple lot in our community. 10:51

2 We knew that he had built what had been
3 represented to us as a music room, which was
4 fairly large. I had never been inside of it, but
5 I had seen it from the street. 10:52

6 It seemed as if there would be capacity
7 in his house for a large group of people. And
8 there was this seemingly very open invitation to
9 amass a large group of people for prayers. I
10 didn't see anything here that suggested a small 10:52
11 operation.

12 Q. All right. Let me pull up what I'm
13 going to mark as -- I think we'll call these just
14 P and then B, so just PB1. Just give me a second
15 to get these documents up. 10:52

16 (Exhibit 1 PB, E-mail chain,
17 1-21-21, Bates stamped
18 UNIVHTS001027, was marked for the
19 purposes of identification.)

20 Q. Okay. Let me share my screen here. 10:53
21 This is going to be PB1, and this is 21.01.19 in
22 the documents that Jonathan circulated. And I
23 just want you to take a minute and look at these
24 documents?

25 A. It's too small for me to read. Is there 10:53

1 a way to blow that up? 10:54

2 Q. There is. Hold on a second. Is that
3 better?

4 A. That is better.

5 Q. If you could just take a minute to look 10:54
6 at that letter and let me when you've had a chance
7 to look at it.

8 A. Okay.

9 Q. Do you recognize this document?

10 A. I do. 10:54

11 Q. And what is it?

12 A. Well, it's some e-mails. One is the --
13 the bottom part is the e-mail I believe that was
14 also the invitation that had been forwarded to me
15 by one of the residents who had expressed concern 10:55
16 about this shul opening up.

17 And then there was this message here
18 from Mr. Grand. I believe he forwarded this to
19 me. I'm cc'd on it. I believe this was after the
20 cease-and-desist letter, yeah. This appears to be 10:55
21 that.

22 Q. Okay. So the -- the bottom half of this
23 document is a document that has the top of it on
24 1-19, 2021, 11:37 p.m., Daniel Grand wrote. So
25 that would be almost at midnight on January 19th. 10:56

1 And this document was -- do you 10:56

2 recognize this document, the bottom half? And
3 that you said was forwarded to you by Mr. Feldman?

4 A. Well, Mr. Feldman -- what Mr. Feldman
5 forwarded to me was through Facebook Messenger. 10:56

6 I don't know if that date that is listed
7 there at the top was the e-mail that had gone
8 through, but it is probably about the time that it
9 was sent to us for probably the next day. Because
10 when I got this, I sent it to our law department 10:56
11 right away.

12 We had also been -- you know, this
13 hasn't come up yet, but we had also been at the
14 same time responding to resident concerns on
15 Churchill Boulevard about a shul that was opening 10:57
16 in a house over there, where some folks had
17 purchased a house of Churchill Boulevard for the
18 purpose of opening up a shul. And nearly every
19 resident on the street signed a petition asking
20 the city to do something about it. 10:57

21 So, you know, in the context here of
22 everything else that was going on among people
23 opening up shuls or synagogues in residences, I
24 had Aleksander Shul, which, you know, had started
25 in 2019, as far as them coming before the planning 10:57

1 commission. We had given them 90 days, they 10:57

2 hadn't come back after their February meeting in

3 2020. So we had that outstanding matter.

4 Then we had the shul on Churchill that

5 was opening, and we ended up in court over that. 10:58

6 And then we had Danny Grand, apparently

7 opening up a shul of his own in his house over on

8 Miramar Boulevard.

9 So there was a lot going on at that

10 time, but -- 10:58

11 Q. As you said about one of my questions,

12 there's a lot to unpack in what you just said.

13 But let me try to just zero in on this

14 e-mail for a second.

15 A. Sure. 10:58

16 Q. Did you receive a copy of this, the

17 e-mail, the bottom half here that's on the screen

18 or did you just receive the Feldman Facebook post,

19 which we'll get to in a second?

20 I just want to know if you received this 10:58

21 actual e-mail, which appears to be the invitation

22 that Mr. Grand sent to some of his friends.

23 Did you receive that document itself?

24 A. Well, I have received it right here. I

25 mean, I have received it here and I received it 10:59

1 from Mr. Feldman. I don't think Mr. Grand 10:59

2 forwarded it to me originally.

3 Q. Okay. So it was part of this e-mail

4 chain that is on the screen. But is it fair,

5 before you received the e-mail from Mr. Grand 10:59

6 dated January 21st, 11:17 p.m. on top, had you

7 received a copy of the bottom portion of this

8 document? Let's just call this the invitation,

9 for lack of a better word. Had you received a

10 copy of this invitation from any other source 10:59

11 before receiving Mr. Grand's e-mail, dated January

12 21st?

13 A. Yes, I did.

14 Q. How did you receive that?

15 A. From Ben Feldman. 11:00

16 Q. So Ben Feldman made a Facebook post and

17 he also sent you the invitation itself?

18 A. He sent me it. It wasn't a Facebook

19 post, it was on Facebook message.

20 Q. Okay. 11:00

21 A. And he -- I think he copy/pasted the

22 contents of the e-mail into Messenger.

23 Q. Okay. Let's go out of this -- we may

24 come back to this -- for a second.

25 MR. QUANTON: Can we just go off the 11:00

1 record for one second? 11:00

2 THE VIDEOGRAPHER: Going off the record
3 at 11:00 a.m.

4 (Recess taken from 11:00 a.m. to
5 11:18 a.m.) 11:00

6 THE VIDEOGRAPHER: Back on the record.
7 11:18 a.m. Go ahead.

8 BY MR. QUANTON:

9 Q. Okay. I'm going to pull up a document
10 that I would like the reporter to mark as PB2. 11:19
11 And this is identified as 21.01.21a in the folder
12 of documents. And let me try to make sure that
13 this is the right size, so you can see the whole
14 document.

15 (Exhibit 2 PB, Messenger, Facebook, 09:44
16 1-21-21, Ben Feldman, Bates stamped
17 UNIVHTS001093, was marked for the
18 purposes of identification.)

19 Q. Take a chance to look at this document
20 and let me know if you can read it. 11:20

21 And then, when you've looked through
22 it -- actually, there's -- well, just look through
23 that and then I may have to resize it. Let me
24 know when you're done.

25 MR. CLIMER: Enlarge it. Scroll it. 11:20

1 THE WITNESS: Yeah, I mean, could we do 11:20

2 that? That would be a lot easier.

3 Q. Yeah, let's do that. That's fine.

4 A. Okay.

5 Q. So, is that size good? 11:20

6 A. That's much better. Thank you.

7 Q. Okay. Let me know when you get to the
8 part where it says, "Star-K."

9 A. Star-K, I think I'm ready.

10 Q. Do you recognize what you've just had a 11:22
11 chance to look through?

12 A. Yes.

13 Q. And what is that?

14 A. It is the message I received from Ben
15 Feldman regarding the opening of the synagogue 11:23
16 Shomayah Tefillah at 2343 Miramar Boulevard --
17 (Zoom interference.)

18 A. -- it is the -- it is the invitation
19 forwarded to me from Ben Feldman, announcing the
20 opening of the Shomayah Tefillah -- Tefillah 11:23
21 synagogue or shul at 2343 Miramar Boulevard, the
22 Daniel J. Grand residence.

23 Q. You say this is a message that informs
24 people of the opening of a synagogue.

25 Where do you see that this -- that 11:23

1 anything in here from Mr. Grand indicates that 11:23

2 there will be a synagogue opening?

3 A. Well, it says, "shul."

4 Q. But that's not my question.

5 Did it say anything about a synagogue in 11:24

6 anything from Mr. Grand?

7 A. I don't see the word synagogue, if
8 that's what you're asking. I see the word shul.

9 Q. Does it say anything about a synagogue
10 specifically? 11:24

11 A. I don't see synagogue in the part that's
12 on the screen here. I see what's described as the
13 activities of a synagogue.

14 Q. So let's start -- so there are two parts
15 to this. 11:24

16 A. And there's references there to
17 synagogues.

18 Q. Yeah. Let's just -- hold on, let me ask
19 the question.

20 There are two parts to this document. 11:24

21 There's a first part, which begins, "Mayor
22 Brennan, Hello!"

23 And it's a little bit unclear, but I
24 think the context makes it clear, there's one long
25 block paragraph that ends, "I can send those too 11:24

1 if you need." 11:24

2 Do you see that long block paragraph?

3 A. I see that.

4 Q. And that appears to be the actual
5 message from Ben Feldman, correct? 11:25

6 A. Yes, that appears to be Ben Feldman's
7 message.

8 Q. And then, "You are cordially invited to
9 join us this Shabbos for the inauguration of the
10 Shomaya Tefillah Beis Hakeneset." 11:25

11 That appears to be a message not from
12 Ben Feldman, but the beginning of a message from
13 Mr. Grand, is that correct?

14 A. I would agree with that.

15 Q. So just looking at the message from -- 11:25
16 not the message from Mr. Feldman -- this message
17 from Mr. Grand begins, "You are cordially
18 invited."

19 That section does not mention a
20 synagogue, correct? 11:25

21 A. Right. It's in the other section.

22 Q. Now, I think you testified earlier that
23 you know the word shul can mean -- I think your
24 testimony was, it can mean a small gathering or, I
25 think you said a great shtetl, those are the 11:26

1 two -- the two poles of what you understand by 11:26
2 shul.

3 Ignoring what Mr. Feldman wrote, just
4 looking at what Mr. Grand wrote, do you see any
5 invitation to daily prayers? 11:26

6 A. Daily prayers, no.

7 Q. Do you see three prayer dates that are
8 mentioned, or three prayer times that are
9 mentioned?

10 A. I do see where those are mentioned here. 11:27

11 Q. Those are called davening times.
12 You understand deveining means praying,
13 correct?

14 A. That's what I understand, yes.

15 Q. So there would be one davening time on 11:27
16 Friday evening, one davening time on shabbos in
17 the morning -- you understand shabbos is the same
18 thing as shabbat or the sabbath -- you understand
19 that, right?

20 A. I do. Thank you. 11:27

21 Q. And then there's a prayer time on
22 shabbat evening at 5 p.m.

23 Do you see that?

24 A. I see that.

25 Q. So there are three prayer times in all, 11:28

1 that are listed here. 11:28

2 When you see those three prayer times --
3 are you familiar with the prayer practices of
4 orthodox Jews generally?

5 A. To some extent. I'm not orthodox 11:28
6 myself.

7 Q. But you understand that orthodox Jews
8 generally do pray multiple times during the day,
9 every single day of the week. You're familiar
10 with that, correct. 11:28

11 A. I am familiar that there are daily
12 prayers, yes.

13 Q. And there's no invitation here to daily
14 prayers, correct?

15 A. There is no invitation here to daily 11:28
16 prayers.

17 Q. If you go down to the bottom of this
18 e-mail, the next-to-the-last line, it says, "we're
19 pushing hard to make sure we have a minyan right
20 from the start." 11:28

21 Are you familiar with the word "minyan"?

22 A. I am.

23 Q. And so what is a minyan?

24 A. A minyan is a quorum of ten Jewish men.

25 Q. So if he's pushing hard to get ten 11:29

1 people, does that sound to you like a great 11:29

2 shtetl, in your word?

3 A. Well, a great shtetl is a reference to
4 Aleksander Shul, that's the nickname they've given
5 themselves. I don't know if that was applicable 11:29
6 here. That's Aleksander Shul's name.

7 Q. Sorry. Does this sound to you -- when
8 you see, "we're pushing hard to make sure we have
9 a minyan," which is we're trying hard to have ten
10 people, does that sound to you like this is of the 11:29
11 scope or scale of the Aleksander Shul?

12 A. That one line?

13 Q. Yes.

14 A. I don't know.

15 Q. Well, if he's pushing hard to make sure 11:30
16 he has ten people, it sounds like he's not sure if
17 he's even going to get ten people to come to his
18 house, correct?

19 A. I don't know that I would agree. You
20 know, a certain amount of enthusiasm to have a 11:30
21 good turnout.

22 I've organized events, I will describe
23 something as, you know, pushing hard to have good
24 attendance.

25 I mean, it also says here, "Please 11:30

1 spread the word to whomever you feel might be 11:30
2 interested in coming."

3 That sounds pretty broad to me.

4 Q. Okay. But the goal here is to have --
5 to push hard to get a minyan of ten people. 11:30

6 The goal -- that's -- do you understand
7 what the e-mail -- what the message here is
8 saying, we're pushing to make sure we have a
9 minyan?

10 So let's move on. Let's go now to the 11:31
11 characterization of this message by Mr. Feldman.

12 And does Mr. Feldman mention opening a
13 synagogue in his message to you?

14 A. Yes, it says that here.

15 Q. And, in fact, he mentions the word 11:31
16 synagogue probably -- mentions the word synagogue
17 four times: "Opening a synagogue" on Line 5;
18 "makeshift synagogues," on Line 7; "official
19 synagogues" on the next line; he talks about "pop
20 up synagogues in the neighborhood." 11:32

21 And my question is: Did you consider --
22 when you received this message from Mr. Feldman,
23 it has two pieces, it has Mr. Feldman's commentary
24 and an invitation from Danny Grand -- did you
25 focus on Mr. Feldman's commentary or on 11:32

1 Mr. Grand's message itself? 11:32

2 A. I read all of it, but certainly I think
3 I gave Mr. Feldman some credence here on his
4 observations. And these are consistent with other
5 complaints people have made about residential 11:33
6 shuls, he calls them "non zoned makeshift
7 synagogues, pop up synagogues."

8 Those aren't terms I usually use, but
9 these are terms I do hear.

10 And, you know, we've had a number of 11:33
11 these in University Heights, and in the context of
12 what is going on with the one on Churchill and
13 what had gone on with Aleksander Shul, it appeared
14 that, you know, Mr. Feldman here, who is part of
15 the Jewish community, describes it this way, that 11:33
16 seems at least plausible to me and worthy of
17 attention and investigation.

18 Q. So Mr. Feldman's characterizations
19 seemed plausible and worthy of investigation.

20 So then did you investigate 11:34
21 Mr. Feldman's claims?

22 A. Well, you know, what we did was we
23 sought to contact Mr. Grand.

24 Q. Okay. So let's just look at the timing
25 here, if we could. 11:34

1 This message, the upper left-hand 11:34

2 corner, it says "1-21-2021."

3 A. I see that.

4 Q. And then the message itself says "12:14

5 p.m." 11:34

6 A. I see that.

7 Q. Okay. So we're going to do an

8 investigation.

9 And I think you said earlier that your

10 investigation of Aleksander Shul, it's 11:34

11 situation -- that lasted about a year, is that

12 right?

13 A. No, we took a year to try to get a

14 meeting.

15 Q. Okay. It took a year to try to get a 11:35

16 meeting, fair enough.

17 And this is 12:14 p.m. And I think you

18 said that these complaints were plausible -- I'm

19 sorry. We have to start over again.

20 A. Okay.

11:35

21 MR. GROSS: If you're having technical

22 difficulties, I can share a screen.

23 MR. QUAINTON: That's fine. It's

24 something by mistake and we're good. Let me

```
25      just put that back on the screen.                                11:36
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1 BY MR. QUANTON:

11:36

2 Q. Okay. All right. So 12:14 p.m. on
3 1-21, 2021, and you said the allegations that
4 Mr. Feldman made were plausible and warranted an
5 investigation.

11:36

6 So I just want you to walk me through
7 the steps you took to conduct an investigation.

8 A. I said they warranted investigation, you
9 know, so -- but --

10 Q. I thought you said with Aleksander Shul,
11 there was an investigation.

11:36

12 I'm just talking specifically with
13 Mr. Grand, where you said this allegation by
14 Mr. Feldman was plausible.

15 MR. QUANTON: Actually, Reporter, can
16 you go back to that section of the transcript
17 where the mayor says it's plausible, just so I
18 don't put words in his mouth?

11:36

19 (Record read.)

20 BY MR. QUANTON:

11:39

21 Q. So, in our discussions you've -- you
22 struck me as very thorough, Mr. Mayor. I'm not
23 saying that to butter you up, it's just the way
24 you struck me.

25 My question is: When you said that

11:39

1 Mr. Feldman's claims were plausible and worth 11:39
2 attention and investigation, what steps did you
3 take to investigate Mr. Feldman's claims?

4 A. Well, you know, the step that was taken
5 here was -- you know, we've got these davening 11:39
6 times that are coming up on shabbos, and I'm not
7 immediately recalling what day of the week the
8 21st is. But it seemed to me, especially in light
9 of what we had just dealt with on Churchill
10 Boulevard, with a shul that was, you know, opening 11:40
11 up there, and, you know, residents asking us there
12 to take action, that this was something that
13 we're -- if we wanted to contact Mr. Grand about
14 this before these davening times, that we needed
15 to, you know, act quickly to reach out to 11:40
16 Mr. Grand.

17 And reaching out to Mr. Grand, you know,
18 whether we want to call that investigation or just
19 taking action or being responsive to a resident,
20 you know, this is something where attempting to 11:40
21 contact Mr. Grand regarding our concern here
22 wasn't working.

23 Q. Did you attempt to reach out to
24 Mr. Grand?

25 A. Oh, we did, we sent him a letter and I 11:41

1 also tried to call him. 11:41

2 Q. Sorry, but let's just do things in time.

3 So I think we'll get to the letter in a
4 sec. I don't think the letter was about
5 investigation. 11:41

6 So it's 12:14 on the 21st, and you've
7 got this allegation by Mr. Feldman that there's a
8 pop-up synagogue or makeshift synagogue or bad
9 synagogue or some kind of synagogue to cause a
10 problem, and then you've got an invitation from 11:41
11 Mr. Grand inviting people to pray on shabbos eve.

12 So I guess my question was: Did you
13 attempt to contact Mr. Grand right after you
14 received this communication from Mr. Feldman?

15 A. Minute to minute, I don't recall exactly 11:42
16 when I contacted Mr. Grand or in what precise
17 order. I know I went to a voicemail. But it
18 seemed to me that we needed to clear up some
19 miss -- you know, whatever the misunderstanding is
20 that you can't just open a house of worship in 11:42
21 University Heights without first going through and
22 seeking and obtaining a special-use permit.

23 Q. I understand that.

24 A. He's describing having services and the
25 kinds of -- different kinds of services, you know, 11:42

1 This week it will be Ashkenaz, you know, next week 11:42
2 it may be something else. So this seems like
3 something that's organized and ongoing, and not,
4 you know, informal.

5 Q. Okay. You used the words "seems like." 11:43
6 I guess what I'm trying to understand is what you
7 did to determine what this was really like.

8 I mean, you read this and it says he's
9 trying to get a minyan of ten people. And he
10 mentions praying on three times, once on Friday 11:43
11 evening, two times the following day.

12 And I think you said that you left a
13 voicemail for Mr. Grand, is that right?

14 A. I did leave a voicemail for Mr. Grand.

15 Q. Okay. And then did you speak to your 11:43
16 law director about this?

17 A. Yes, yes, I did.

18 Q. I'm not going to ask you about the
19 contents of that discussion.

20 Did you attempt to speak to the rabbi 11:44
21 who's mentioned here, Rabbi Rosskam?

22 A. I did not know Rabbi Rosskam to know how
23 to contact him. I don't even have a first name
24 here.

25 Q. That wasn't my question. 11:44

1 Did you attempt to find out what Rabbi 11:44

2 Rosskam's first name was?

3 A. No.

4 Q. But you spent a year trying to find --
5 to get in touch with Rabbi Denciger, right? 11:44

6 A. Well, in that instance the Aleksander
7 Shul was a longstanding ongoing concern, and this
8 is something that appears to be opening and has
9 not yet actually started, apart from the
10 announcement. 11:45

11 Q. So you want to shut it down before
12 there's any prayer at all, is that fair?

13 A. No, no, that's not fair. I mean, I
14 don't like that characterization.

15 What I would say -- well, go ahead and 11:45
16 ask me another question.

17 Q. Okay. You don't like the phrase shut it
18 down, so let's look at another document then.

19 A. Okay.

20 Q. Okay. So I'm going to mark the next 11:46
21 document as, I think, PB3. And this is in the
22 folder that was previously submitted marked as
23 21.1.21 c.

24 (Exhibit 3 PB, E-mail/letter,

25 1-21-21, Bates stamped 11:46

1 univhts001027, was marked for the 11:46

2 purposes of identification.)

3 Q. I guess this is the same thing, we'll

4 try to scroll through this.

5 Take a look at this, Mr. Mayor, and tell 11:46

6 me when you've got to the end of this paragraph.

7 You've read that page?

8 A. Yes.

9 Q. Are you familiar with the document
10 that's marked as PB3? 11:47

11 A. I am.

12 Q. And what is it?

13 A. It is a cease-and-desist letter sent on
14 behalf of the city to the Grands, and to the
15 synagogue or shul, by our city law department, 11:47
16 Mr. McConville, in particular.

17 Q. Have you reviewed this letter before it
18 was sent out?

19 A. I don't know if I did or not.

20 Q. So it's possible you did not review this 11:48
21 letter before it went out?

22 A. It's possible. I don't remember.

23 Q. How would that be possible?

24 A. How would it be possible for the law
25 director to send a letter? 11:48

1 Q. Well, the law director is sending a 11:48
2 cease-and-desist letter.

3 So did you ask the law director to
4 prepare the cease-and-desist letter?

5 A. The law director and I had a 11:49
6 conversation about this matter.

7 THE WITNESS: Should I talk about that
8 conversation?

9 MR. CLIMER: No.

10 (Court reporter clarification.) 11:49

11 MR. CLIMER: I have advised the witness
12 not no answer concerning the contents of his
13 conversation with Mr. McConville, to the
14 extent that conversation was for the purposes
15 of obtaining legal advice. 11:49

16 Q. Well, as mayor of the City of University
17 Heights, if you make a decision to send a -- that
18 a cease-and-desist letter should be sent to
19 Mr. Grand?

20 A. I believe that it was an appropriate 11:50
21 thing to do.

22 Q. That wasn't my question.

23 Did you, as the mayor, make a decision
24 that a cease-and-desist letter should be sent to
25 Mr. Grand? 11:50

A. After consultation with our law director, I believed that this was the appropriate step and I believe I authorized it, yes.

11:50

Q. This letter says -- I'm looking at the
second paragraph, "To the intent (sic) you intend
to use the Premises" -- "as a place of religious
assembly" -- "the City demands that you
immediately cease and desist any such operations."

Do you see that?

11:50

10 A. I see that. 11:51

11 Q. Did you agree with that?

12 A. Well, I agree that that would be a
13 correct statement, that the city would want
14 Mr. Grand, to the extent that he was planning on
15 operating a house of worship, that that needs to 11:51
16 cease and that he desist from doing that.

17 Q. This says a -- I'm just looking at the
18 words here. This says, "a place of religious
19 assembly."

20 The city demands you immediately cease 11:51
21 using the premises, 2343 as "a place of religious
22 assembly."

23 A. Well, I didn't write the letter and I
24 think it speaks for itself. You know, the
25 operation of a shul or synagogue is prohibited

11:52

1 without a special-use permit. 11:52

2 Q. Well, when we were talking before,
3 looking at Mr. Grand's invitation, where he's
4 inviting people prospectively to pray at his house
5 on shabbos, and I said you were trying to shut 11:52
6 that down before it happened, and you said no, no,
7 I wouldn't agree with that.

8 A. I didn't agree with your
9 characterization.

10 Q. Okay. Well, let me ask you that. 11:52

11 A. Yeah, okay.

12 Q. Having read this letter, when you had
13 Mr. Grand's invitation that he have a minyan at
14 his house for prayer on shabbos, you were trying
15 to shut that down, right? 11:53

16 MR. CLIMER: Objection. I object.
17 Go ahead.

18 THE WITNESS: Yeah, I think you're
19 misstating my testimony and you're
20 mischaracterizing what I said. 11:53

21 You know, I believed that Mr. Grand was
22 opening a synagogue. He had a name for it.
23 He has registered that name as a synagogue.

24 And, you know, Mr. Feldman believed it
25 was a synagogue. I tended to believe 11:53

1 Mr. Feldman was more knowledgeable about it 11:53
2 than I was.

3 And given that the opening of the
4 synagogue appeared to be this shabbos, getting
5 a letter out now, before shabbos, seemed 11:53
6 crucial.

7 Q. You said that Mr. Grand had registered
8 the name as a synagogue, what are you referring
9 to?

10 A. I believe Mr. Grand has registered 11:54
11 that -- the name Shomayah Tefillah Beis Hakeneset,
12 I think with the State of New York, as a going
13 concern.

14 Q. And your understanding is he has
15 registered that name as a synagogue? 11:54

16 A. I don't have the legal filing in front
17 of me, but he has registered the name. And I
18 think the filing reflects it being used as a
19 synagogue and/or school or place of religious, you
20 know, teaching and observation. But I'm going on 11:54
21 memory here. Whatever the document says, it says.

22 Q. Before --

23 A. I've never heard of registering a name
24 for an informal gathering, so I'll leave it that.

25 Q. Do you recall what time of day this 11:54

1 letter went out?

11:54

2 A. No. I mean, it had to be in the
3 afternoon, though, or the evening, because we
4 didn't even get Mr. Feldman's message until, you
5 know, the afternoon of that day.

11:55

6 Q. Right. So you received a message from
7 Mr. Feldman in the afternoon of that day, and then
8 sometime in the evening -- but just to be clear,
9 you did authorize Mr. -- you did authorize the
10 author of this letter, who is a Mr. McConville,
11 you did authorize him to send this letter,
12 correct?

11:55

13 A. Yes. He was not acting on his own, no.
14 I do approve of this letter being sent.

15 Q. Okay.

11:55

16 A. I do not recall whether I read it before
17 it was sent.

18 Q. Did you speak to Mr. Grand before this
19 letter was sent?

20 A. I did speak with Mr. Grand, I believe on
21 this day. I don't know if he would have received
22 the letter or if it was sent prior to my speaking.

11:56

23 Q. When you spoke to Mr. Grand, what's your
24 recollection of that conversation?

25 A. My recollection is that Mr. Grand tried

11:56

1 to minimize what he was doing, and tried to 11:56
2 characterize it as something different than what I
3 saw in the invitation.

4 And I made clear to him that we have
5 requirements in the City of University Heights, 11:56
6 that one seek and obtain a special-use permit
7 before operating a house of worship, yeah, in our
8 city.

9 Q. Well, you said he was trying to minimize
10 what he was doing. It sounds like your mind was 11:57
11 already made up; is that fair?

12 A. No, I wouldn't quite put it like that,
13 but I would say that I didn't find Mr. Grand
14 credible.

15 Q. Okay. So why is it that you didn't find 11:57
16 him -- so let's go back, without sort of the
17 characterizations he was trying to minimize.

18 Just can you tell me specifically what
19 you recall him saying was his intention?

20 A. Well, he was describing that he was just 11:57
21 trying to get some people together at his house to
22 pray, but he was withholding that he had invited
23 the community to come over to the opening of the
24 synagogue, to come meet the rabbi and be a part of
25 an ongoing concern with regular weekly services. 11:58

1 I had the benefit of the invitation from 11:58
2 him. I didn't tell Mr. Grand I had that. And
3 when I heard him minimize what he was doing, I
4 believed he was being dishonest with me.

5 Q. So you interpreted his letter or his 11:58
6 invitation as an invitation to the community?

7 A. Yes.

8 Q. Why did you think that?

9 A. Because the invitation tells people to
10 share this with everybody who might be interested. 11:58

11 Q. Did you know who this e-mail was sent
12 to, the invitation was sent to?

13 A. At that time, I did not know everybody
14 who had received the invitation.

15 Q. Did you seek to find out who had 11:59
16 received the invitation?

17 A. When? At that moment? I was just
18 trying to --

19 Q. After you received --

20 (Cross-talking.) 11:59

21 A. -- any misunderstanding over whether or
22 not you can open a synagogue without a permit in a
23 day or two prior to when the opening is.

24 I don't remember exactly which day of
25 the week was the 21st, but it seemed to me that we 11:59

1 should be responsive and acting timely with 11:59
2 respect to an upcoming shabbos, an invitation to
3 attend shabbos services, you know, later that same
4 week.

5 Q. Okay. I'm just trying to get to what 12:00
6 you actually knew.

7 Did you know who had received
8 Mr. Grand's invitation?

9 A. I do not know the extent of who had it.

10 I think Mr. Feldman had it. He mentioned it was 12:00

11 discussed on his Groveland group. Groveland is a

12 street in the City of University Heights.

13 Q. Did you ask Mr. Feldman whether
14 Mr. Feldman had forwarded this invitation to other
15 people or whether Mr. Grand had forwarded -- had 12:00
16 sent the invitation to people on Groveland?

17 A. I don't think I asked any of that.

18 Q. Did you call Mr. Feldman after you
19 received the message from Mr. Feldman?

20 A. I don't recall.

12:01

21 Q. Did you send him an e-mail asking what
22 he meant by pop-up synagogue or makeshift
23 synagogue?

24 A. I don't think so.

25 Q. You just took him at his word? 12:01

1 A. That may be. I don't know if we spoke 12:01
2 on the phone. We might have. He might have
3 called me.

4 Q. Did you ask Mr. Grand whether he was
5 planning on opening a synagogue? 12:01

6 A. At that point I was telling Mr. Grand
7 that he cannot open a synagogue.

8 Q. Why did you think he was opening a
9 synagogue?

10 A. Because Mr. Feldman believed that he was 12:02
11 opening a synagogue.

12 And it appeared to me, from what was
13 described in the message, the invitation that was
14 forwarded to me, that this was consistent with the
15 formal opening of a synagogue with a name. 12:02

16 And if it's not a synagogue, then that
17 was something that could be determined later. But
18 in the meantime, I didn't want there to be any
19 confusion about the fact that the city cannot
20 simply -- does not simply abide having houses of 12:02
21 worship opened without going through the process
22 that involves having asking the board for a
23 special-use permit.

24 Q. Okay. Let me just step back for a
25 second, because I -- Brennan, is that a Catholic 12:02

1 name? 12:02

2 A. It's an Irish name.

3 Q. So are you Catholic?

4 A. I was raised Catholic.

5 Q. The reason, my father was Catholic and 12:03
6 he died recently.

7 A. I'm sorry to hear that.

8 Q. He was sick for quite some time. We had
9 a priest come over to his house to administer the
10 Eucharist. 12:03

11 If my mother sent an e-mail and said,
12 please come to our house on Sunday to share the
13 Eucharist with Tony -- that's my dad's name --
14 would you have sent her -- if she had lived in
15 your community, would you have sent her a letter 12:03
16 saying you must immediately cease and desist from
17 any such attempts?

18 A. No, I don't think I would have.

19 Q. And why not?

20 A. Because I don't think there's anything 12:03
21 there to indicate a regular practice of opening a
22 house of worship in your mother's and father's
23 home.

24 Q. So what was it that made this seem like
25 a regular house of worship, in Mr. -- not in 12:04

1 Mr. Feldman's characterization -- just get 12:04

2 Mr. Feldman's characterization, which is just pure
3 hearsay, out of your mind, and look at Mr. Grand's
4 invitation.

5 What in that invitation makes you think 12:04
6 that this was a regular house of worship that
7 required a special-use permit?

8 A. He referred to weekly services.

9 Q. Okay. Let's go back to my mother is
10 saying we'd like you to come and share the 12:04
11 Eucharist with Tony on Sundays, no one knew how
12 long he was going to live. In fact, he lived
13 about a year in that condition.

14 With a regular weekly administering of
15 the Eucharist in my parents' home, with a priest 12:04
16 and other people coming by on a regular basis, as
17 a mayor, would you have shut that down?

18 A. I don't know that that's -- that's a
19 very interesting hypothetical. I mean, you were
20 describing his last rights, I thought. And, you 12:05
21 know, I'm not aware of last rights being given on
22 a weekly basis, so.

23 Q. Sorry. Just to be clear, my
24 hypothetical -- and I'll move on from this -- but
25 it was not last rights, it was just a regular 12:05

1 administration of the Eucharist by a priest, with 12:05
2 a small group of people in the living room.
3 That's what it was.

4 My question was: Had an e-mail gone out
5 saying we would like you to come on Sundays to 12:05
6 share the Eucharist with Tony in our living room,
7 whether you would have sent a cease-and-desist
8 letter to prevent that, had that happened in
9 University Heights?

10 A. Based upon the limitations you had 12:06
11 described, I don't think so.

12 Q. So let's -- okay. We'll come back to
13 this. I would like to move on to another topic.

14 In the cease-and-desist letter the
15 author, I guess it's Mr. McConville, says that a 12:06
16 special-use permit under 1274 will be required.

17 Do you see that? Did you see that
18 before I took it down?

19 A. I did see that.

20 Q. Okay. 12:06

21 A. It has disappeared.

22 Q. So I don't need to put that back up.

23 What I would like to do, though, is --

24 I'm just going to -- I would like to shift gears a
25 little bit here and talk about the planning 12:07

1 commission meeting that would occur a couple 12:07
2 months later.

3 And I just want to go back to the
4 cease-and-desist letter just for a second. I'm
5 going to pull this up. Yeah, I'm just pulling up 12:07
6 again PB3, and I'm looking at the last page here.

7 And it says, "You may make application
8 to the City's Planning Commission for a Special
9 Use Permit."

10 Before we get to that, did you consider 12:08
11 telling Mr. Grand, either in conversations with
12 him or before this letter went out, that if he
13 kept the prayer on shabbos to a small group of
14 people, he would not need a special-use permit?

15 A. No, I don't -- no, I did not. 12:09

16 Q. And do you believe that if he had
17 kept -- if he were to keep shabbos prayer at
18 his -- in a room in his home to ten or so people,
19 that he would not need a special-use permit?

20 A. Yeah, I would agree with that. I would 12:09
21 agree that a small prayer gathering, even a small
22 regular prayer gathering is not the same as a shul
23 or a synagogue, and not the city's business at
24 that point.

25 Q. Okay. So a small prayer -- and I think 12:09

1 you said that you understand a shul can be a small 12:09
2 prayer gathering, correct?

3 A. Apparently, it can.

4 Q. That was your earlier testimony, yeah.

5 So a shul that would be a small prayer 12:10
6 gathering would not require a special-use permit,
7 and yet you didn't -- you jumped immediately to
8 telling Mr. Grand that he wouldn't -- he had to
9 cease any use of the premises -- and I'm just
10 quoting here -- as a place of religious assembly, 12:10
11 even though using his home as a shul for a small
12 gathering of people to pray, would not require a
13 special-use permit.

14 I guess I just don't understand the
15 procedure here. 12:10

16 A. I don't understand your question.

17 Q. My question is: Why did you send a
18 cease-and-desist letter to Mr. Grand, when you
19 just said he wouldn't need any approval if he
20 wanted to have a shul in his home for a small 12:11
21 gathering?

22 A. No, that wasn't my testimony. We sent a
23 cease-and-desist letter because we believed he was
24 opening a synagogue in his home. And it appeared
25 that this was going to be a large gathering. The 12:11

1 aspirations in the invitation itself suggested, 12:11
2 you know, let everybody know who might want to be
3 here, we're having regular weekly services. There
4 is a name for the organization or the concern,
5 called Shomayah Tefillah Beis Hakeneset, led me to 12:11
6 believe we were talking about the opening of a
7 formal house of worship in Mr. Grand's home, based
8 upon Mr. Feldman's comments and Mr. Grand's
9 invitation itself.

10 And if it turned out it wasn't that, 12:12
11 then the cease-and-desist letter was -- would not
12 be -- and eventually, when it became clear that
13 all Mr. Grand, you know, wanted to do was have a
14 small group of people pray in his home, you know,
15 the city is prepared to say fine. That's not the 12:12
16 city's business.

17 But at this point it did not appear that
18 that's what we were talking about. It appeared to
19 me, and I think to the law director, too, because
20 he signed the letter and prepared this, that it 12:12
21 appeared to be a more formal, larger, you know,
22 shul or synagogue that was opening a house of
23 worship. And under the code 1274 a special-use
24 permit is required.

25 Q. Just to recap, you didn't ask 12:13

1 Mr. Feldman to clarify his allegations, correct? 12:13

2 A. No. I think I said I didn't recall
3 whether I spoke with him or not.

4 Q. And you didn't ask Rabbi Roskam to
5 clarify his role in this? 12:13

6 A. I had to idea how to get ahold of the
7 rabbi.

8 Q. Then you said you thought Mr. Grand was
9 not credible, is that correct?

10 A. I believe that's what I said, yes. 12:13

11 Q. Just if you can help me understand, why
12 did you think he was not credible?

13 MR. CLIMER: Objection. Asked and
14 answered.

15 But go ahead. 12:13

16 THE WITNESS: Mr. Grand's credibility is
17 informed to me by how he had conducted himself
18 in his meeting with me back at city hall,
19 when, you know, followed by that inappropriate
20 gift he sent over. 12:14

21 It was informed by the bazaar request to
22 be my intern.

23 It is the -- the way he behaved at the
24 planning commission meeting with Aleksander
25 Shul, and the overall way that he conducted 12:14

1 himself with regard to the expansion of his 12:14
2 home, especially in proceedings before the
3 board of zoning appeals, where he took a very
4 antagonistic approach to our BZA and its
5 board, and was dishonest in representing 12:14
6 how -- what he was doing in the expansion.

7 He was -- he had misrepresented with
8 regard to the use in pouring of concrete at
9 the home, and the -- and the overall dealings
10 that we had had with the city had -- he had 12:15
11 built a reputation for himself as not being
12 honest or credible with regard to matters that
13 he was bringing before the city.

14 And thus, when I called Mr. Grand, I was
15 less interested in having a conversation about 12:15
16 what he may or may not be claiming to be
17 doing, because he generally claimed various
18 things before the board of zoning appeals
19 which proved not to be true, than I was trying
20 to convey to him simply, at this point, I 12:15
21 don't care how you're characterizing this, if
22 you are attempting to open a synagogue here in
23 your home, that requires a special-use permit.
24 Don't try to call it something else.

25 Q. Like a shul? 12:15

1 A. Well, you know, and a shul, apparently, 12:15
2 can mean different things to difference people.

3 In the experience I've had in University
4 Heights, Aleksander Shul has 100 -- lots of
5 different people who were attending those 12:16
6 gatherings for some period of time.

7 There was the shul that was opening up
8 on Churchill Boulevard, where all of the other
9 residents on the street, many of whom were
10 orthodox Jewish themselves, all signed a petition 12:16
11 asking the city to stop that.

12 And, you know, we intervened in that
13 matter and advised -- and took legal action about
14 not opening a shul or synagogue in that home on
15 Churchill Boulevard without receiving a 12:16
16 special-use permit.

17 And ultimately they abandoned
18 proceeding. They ended up selling the house
19 instead of going through a process to try to
20 endeavor to open a religious institution at that 12:17
21 time.

22 Q. Are you familiar with the phrase "a
23 shabbos shul"?

24 A. I have come to learn of that phrase,
25 yes. 12:17

1 Q. What does a shabbos shul mean, as you've 12:17
2 come to learn what that term means?

3 A. I have come to learn it is a -- it is a
4 place where prayers and observations are had only
5 on shabbos, so basically sundown Friday and 12:17
6 sundown Saturday.

7 Q. And does a shabbos shul of that type,
8 does that meet your definition of a full-blown
9 synagogue?

10 A. I don't know. I mean, probably not, 12:17
11 because if you're not there every day, then it's
12 not a full-blown synagogue, but is it still a
13 synagogue? I don't know the answer to that.

14 I also don't know if it still doesn't
15 qualify as a house of worship, depending on the 12:18
16 amount of attendance at the shabbos shul. Are we
17 talking 10 or 12 of 18 people, or are we talking
18 100 or 200 people?

19 I would tend to say, if it's on the
20 larger end, we're talking about a house or 12:18
21 worship, even if it's only used just a couple days
22 of the week.

23 If it's a smaller, informal group, then
24 that's not going to be anything that is of the
25 city's concern. 12:18

1 Bates stamp, was marked for the 02:09

2 purposes of identification.)

3 Q. And this was 21.01.22 Grand SUP app in
4 the folder we provided.

5 Mayor, could you just look through this 02:10
6 document?

7 A. Blow it up, please.

8 Q. Sure, yep. Actually I want to give -- I
9 can give you control.

10 MR. QUANTON: How do I give you control 02:10
11 of the screen again?

12 MR. GROSS: Request remote control.

13 (Cross-talking.)

14 Q. Just look at this document and let me
15 know when you're done.

16 MR. CLIMER: Which one is that 21.01.22?

17 MR. QUANTON: Yes, 21.01.22.

18 MR. CLIMER: Thank you.

19 A. Okay.

20 Q. Okay. You recognize this document? 02:13

21 A. I do.

22 Q. And what is that?

23 A. It is Mr. Grand's filing request for a
24 special-use permit.

25 Q. Okay. And it's a three-page document. 02:13

1 The first page is an e-mail and the second page is 02:13
2 a drawing of a floor plan, and actually a room,
3 within in a -- on a floor. And then the third
4 page is a photograph of a room with some tables
5 and chairs in it, is that correct? 02:13

6 A. That's what I see here.

7 Q. All right. Now, this was sent to you on
8 January 22nd at 10:46 a.m., is that correct?

9 A. That's what it says here.

10 Q. Okay. What is Mr. Grand asking for? 02:14

11 A. I think he's asking for a special-use
12 permit, as reflected in the document.

13 Q. And for what purpose?

14 A. Well, he writes "for a place of
15 religious assembly." 02:14

16 Q. And specifically --

17 A. In his home at 2343 Miramar Boulevard.

18 Q. And specifically what about his home?

19 A. I can read you the whole thing if you
20 would like or, you know, he is asking -- he states 02:14
21 what he says are his intentions. He includes a
22 diagram. He includes a photograph.

23 Q. Is it his stated intention to use his
24 house as a house of worship?

25 A. He does not use the term "house of 02:14

1 worship," but these sorts of things seem

02:14

2 consistent with a house worship.

3 (Court reporter clarification.)

4 Q. So he's asking for permission -- if you
5 look at the third paragraph -- permission to use 02:15

6 his "current recreation room for periodic
7 religious gatherings," is that correct?

8 A. Well, it says, "computer room/music
9 room."

10 Q. Computer room/music room, correct. 02:15

11 So the previous paragraph says he wants
12 to use the current recreation room.

13 A. Oh, I see that.

14 Q. And then he says "this room," so I think
15 that's the same room he's identifying as the 02:15
16 computer/music room; would you agree with that?

17 A. Yes, that's what it appears to state,
18 yes.

19 Q. And he says the room "is a tinge over
20 700 square feet." 02:15

21 Do you see that?

22 A. I see that in the application, yes.

23 Q. Do you know how large Mr. Grand's house
24 is?

25 A. Offhand, no.

02:16

1 (Court reporter clarification.) 02:41

2 Q. This is PB9. It says on the top of it
3 21.03.04.

4 And I'll ask you to look at that, this
5 document, and when you've done that -- let me know 02:41
6 when you're done.

7 (Exhibit 9 PB, Color-coded partial
8 address map, University Heights,
9 Ohio, no Bates stamps, was marked
10 for the purposes of 02:41
11 identification.)

12 A. I'm ready.

13 Q. Do you recognize this document?

14 A. I do.

15 Q. And what is it? 02:41

16 A. This is a -- this is a map, partial map
17 of our city, an address map. And the spot in blue
18 is 2343 Miramar Boulevard, that's Mr. Grand's
19 residence.

20 And then, the spots that have been -- 02:42
21 the lots that have been shaded in pink are the
22 addresses of people who signed a petition opposing
23 the application of Mr. Grand to have his
24 special-use permit for a house of worship.

25 Q. Who prepared this map? 02:42

1 A. I did. Well, that is, I shaded it in. 02:42

2 I didn't draw the map itself.

3 MR. CLIMER: Hey, Eden, can you give me
4 the number of that document again.

5 MR. QUANTON: Yes. 21.03.04. 02:42

6 MR. CLIMER: I have 03, 04, 1, 2.

7 MR. QUAINTON: Let me see. Let's just
8 go off the record for one second.

9 THE VIDEOGRAPHER: Going off the record.

10 2:43 p.m. 02:43

11 (Recess taken from 2:43 p.m. to
12 2:44 p.m.)

13 THE VIDEOGRAPHER: Back on the record

14 2:44 p.m. Go ahead.

15 BY MR. QUANTON: 02:44

16 Q. Okay. So I guess -- referring back to
17 PB9, you -- you took the list of people opposed to
18 the application and then you personally shaded in
19 the addresses, right?

20 A. I did, yes.

02:44

21 Q. And did you share this map with anyone
22 prior to the actual hearing?

23 A. I believe I shared it with the other
24 members of the planning commission, but I don't
25 know if I shared it prior to the hearing or whe

1 the first.

03:06

2 BY MR. QUAINTON:

3 Q. Okay. So I guess I just want you to --

4 this -- I'll just scroll down this one quickly.

5 So have you had a chance to review what

03:07

6 is marked as PB12?

7 A. Yes, I saw that as you scrolled down.

8 Q. Do you recognize it?

9 A. It seems familiar.

10 Q. And what was it or what is it?

03:07

11 A. It's an e-mail between myself and our

12 legal counsel, Luke McConville.

13 Q. I don't want to get into any of the

14 contents of attorney/client privilege, but the

15 "RE" line is "miramar synagogue."

03:07

16 This is at 3 p.m. on the 21st. So this

17 is after you've seen Mr. Grand's -- the e-mail

18 that he had sent to some friends, that then got

19 distributed by other people.

20 You refer to "miramar synagogue." Do

03:08

21 you think you were jumping the gun a little bit in

22 calling this the Miramar synagogue?

23 A. We didn't know exactly what it was. It

24 was characterized by Mr. Feldman as a pop-up

25 synagogue, a residential synagogue.

03:08

1 You know, folks in the community who are 03:08

2 closer to this are calling it a synagogue, so I --

3 Q. You say folks in the community are
4 calling it a synagogue. Who else in the community
5 is calling it a synagogue, other than Mr. Feldman? 03:08

6 A. No, it sounded like the other people
7 that Mr. Feldman was communicating with. He
8 referred to his Groveland discussion group.

9 Q. So it seems like you are putting
10 repeatedly a lot of weight on Mr. Feldman's 03:09
11 characterization of what Mr. Grand wanted to do;
12 is that fair?

13 A. I needed to call it something to
14 differentiate it from other e-mail and other
15 residential shuls and synagogues in the community, 03:09
16 so I used the word Miramar as opposed to just
17 synagogue, because we have Aleksander Shul, we've
18 got Heichal Hakodesh, which tried to build on
19 Churchill. We've got Zichron Asher Zelig also on
20 University Parkway. We've got a number of these 03:09
21 things.

22 I used language that I believed was
23 sufficiently descriptive to allow
24 Mr. McConville to know what -- you know what, this
25 is me replying, so perhaps Mr. McConville called 03:09

1 it "miramar synagogue." I don't know that I used 03:10
2 that in the subject line, now that you mention it.

3 No, no, it looks like I did use it
4 there.

5 So, yeah, it appeared that it may be a 03:10
6 synagogue. It had a name. I probably wrote
7 "miramar synagogue" because I didn't necessarily
8 have the full name right in front of me.

9 Q. You know, again, I'm not saying this to
10 butter you up or anything, but you do respect 03:10
11 religious liberty, is that fair?

12 A. I believe I do.

13 Q. Just, it seems like there's a very quick
14 rush to judgment, you've used the words "these
15 things." I mean, based on Mr. Feldman's 03:10
16 characterization of, you know, of an e-mail that
17 was intended for a small group of people.

18 Looking back on that, do you have any
19 regret that you jumped to such a quick conclusion,
20 that whatever Mr. Grand was trying to do, you 03:11
21 really knew what it was?

22 A. No, I don't know what it was. I mean,
23 at 3:00 in the afternoon, I've known about this
24 for less than two hours.

25 Q. And yet you authorize a cease-and-desist 03:11

1 letter to shut it down. 03:11

2 A. Well, yes, because, as I explained,
3 shabbos was coming up and it seemed to me that
4 responding proactively right away to what he had
5 heard -- you know, if it turned out that this 03:11
6 wasn't -- that this was all some elaborate prank,
7 that Mr. Grand wasn't actually doing anything at
8 his house, that would have been the end of it.

9 I had no reason to think that the e-mail
10 that Mr. Feldman had sent to me was, you know, a 03:12
11 hoax. And as it turned out, it was not.

12 Q. Mayor, don't you think that cuts the
13 other way? That precisely because shabbos is
14 coming up, I mean, that's a very important day of
15 prayer for Mr. Grand and other people who want to 03:12
16 pray on shabbos, and shouldn't you have, before
17 telling him, Mr. Grand, he can't pray in his home
18 with other people, don't you think you should have
19 hit the pause button on the whole thing?

20 MR. CLIMER: I'm going to object to the 03:12
21 form of that question.

22 You can answer. Go ahead.

23 THE WITNESS: Well, I don't know what
24 Mr. Grand created the week before that or the
25 week before that or the week before that. But 03:12

1 it appeared that this was the first time that 03:12

2 he was advertising what appeared to be a
3 synagogue that he was opening in his home.

4 And before a grand opening of a new
5 establishment in the city -- and, you know, 03:13

6 whether we're talking a synagogue or a fried
7 chicken restaurant, if I get notification that
8 somebody is opening a new business in the city
9 and they don't have an occupancy permit, we're
10 going to go over there before their grand 03:13

11 opening and say, hey, full stop, what are you
12 doing? You haven't been before the city.
13 This is really no different than that. You
14 know, we don't wait for them to just go ahead
15 and open up and then come and shut them down 03:13
16 in the middle of the process.

17 You know, here we have reason to think
18 that there is a synagogue or shul or house of
19 worship or something that is opening up.

20 It's been characterized to us by a 03:13
21 resident, who I had no reason to think was
22 mischaracterizing his thoughts, as a
23 residential shul or as he put it a pop-up
24 synagogue or makeshift synagogue. And we've
25 had others like this around the city. It 03:14

1 seemed like the others in these respects. 03:14

2 And in the limited amount of time that
3 we had here, sending Mr. Grand a letter to let
4 him know that if this is what he's doing, he's
5 to cease and desist. 03:14

6 Q. You use the words "grand opening."

7 Where did you get the idea that there was
8 essentially a grand opening that was planned?

9 A. I think I was referring to like the
10 chicken restaurant. 03:14

11 Q. Well, you were acknowledging (sic) it
12 to what Mr. Grand was doing, it was not a --

13 A. I mean, I'm not using -- yeah, I used
14 grand in the conventional sense, not in the way
15 that Mr. Grand has adopted that. 03:14

16 Q. Oh, no, no, no, I don't -- I don't --
17 yeah, no, I meant -- I didn't mean the power of
18 the word. Sorry. I'm getting tired.

19 You know, "grand opening," you meant
20 that in the conventional sense, there was some big 03:15
21 hullabaloo, big opening?

22 A. Yeah, right, right.

23 Q. You thought that because -- what exactly
24 made you think that there was this big grand
25 opening of this pop-up synagogue, other than 03:15

1 Mr. Feldman's e-mail? 03:15

2 A. Well, I thought the e-mail was quite
3 sufficient reason to think that he was announcing
4 to everyone who received it, and everyone who
5 would pass it on thereafter, because he puts 03:15
6 explicitly in the invitation to share this with
7 anybody who you think may be interested.

8 Q. Just to make sure I get an answer to
9 this: Did you check at any time to whom Mr. Grand
10 had originally intended his e-mail to be 03:15
11 distributed to?

12 A. No.

13 Q. Why not?

14 A. Why would I?

15 Q. Well, if you're concerned about some 03:15
16 grand opening and somebody has sent an e-mail to a
17 few people, and said to those few people bring
18 your friends, isn't that very different from
19 somebody who sends an e-mail to thousands of
20 people and says bring all of your friends? I 03:16
21 mean, just as a prudent man, isn't that an
22 important fact that you would want to know?

23 A. Well, perhaps -- regardless if I haven't
24 heard otherwise, but in the two hours here between
25 receiving that invitation, which says share this 03:16

1 with anybody who you think may be interested and 03:16
2 our sending a cease-and-desist letter, I don't
3 know that we needed to have the kind of lengthy
4 analysis that you are talking about before we let
5 Mr. Grand know, hey, you may have a problem here. 03:16
6 And if you're opening a house of worship, if
7 you're opening a synagogue here, if you're opening
8 something that requires a special permit under
9 1274, well, you haven't obtained one, so there is
10 a process for doing that, and the letter in 03:17
11 closing refers to Chapter 1274 and provides
12 Mr. Grand that direction. And if that is the
13 direction he wants to go, then he can do that, and
14 he proceeded to do that.

15 Q. So, did you ask Mr. Grand -- when you 03:17
16 spoke to him on the telephone, did you say -- did
17 you ask him who he had originally sent his e-mail
18 to?

19 A. I did not.

20 Q. You didn't think -- you just didn't 03:17
21 think it was important to know how broadly he
22 intended his invitation to be communicated?

23 A. I thought it was important to let
24 Mr. Grand know that, if he's attempting to open a
25 synagogue or a shul in his home, as per this 03:17

1 invitation, that he is not to do that without a 03:17

2 special-use permit. You know, secondary nature as

3 far as how far his advertising campaign went.

4 Q. Even though you know that a shul can be
5 just a small gathering? 03:18

6 A. This didn't seem like a small gathering.

7 Q. Okay. I think we went over that. I
8 think you said -- you, having spoke to Mr. Grand,
9 and he told you what he actually intended to use
10 the room in his house for, you didn't find him 03:18
11 credible, is that right?

12 A. Well, I don't know that he told me what
13 he actually intended to use the house for.

14 I don't find Mr. Grand credible
15 generally. I have heard him make numerous 03:19
16 misstatements in public forums where he has been
17 sworn or made to affirm under oath as to veracity
18 of what he's saying. I don't find what he says to
19 be truthful in general.

20 So I was less concerned about asking 03:19
21 Mr. Grand questions, giving him opportunities to
22 lie to me, than to convey to him that -- that, if
23 he's opening a shul or synagogue, that he cannot
24 do that without a special-use permit.

25 Q. That's pretty strong language, Mayor, 03:19

1 that you felt you would be giving him

03:19

2 opportunities to lie by asking him questions about
3 his intent? Is that -- do you really mean that?

4 A. I don't find Mr. Grand to be an honest
5 person. 03:19

6 Q. So let's talk about that, because you've
7 mentioned numerous misstatements.

8 Can you give me some examples of these
9 misstatements that he's made when he was been
10 sworn under oath? 03:19

11 A. Well, I can't say that I've attended
12 every BZA hearing that he has attended.

13 I know that his history before the board
14 of zoning appeals is troubling, when it comes to
15 his representations with regard to variances and 03:20

16 various permissions that he has sought with
17 connection to projects he's had at his house,
18 especially as it pertains to pouring of concrete,
19 especially as it pertains to the driveway,
20 especially as it pertains to being told that he 03:20

21 can't turn his driveway into essentially a parking
22 lot, and then throwing gravel down and parking his
23 truck on it.

24 But he doesn't respect the law, clearly.

25 He doesn't respect the authority of the board of 03:20

1 zoning appeals, which I guess is his right. 03:20

2 But, you know, when it comes down to
3 whether somebody is, you know, honest and plays by
4 the rules and, you know, holds themselves out
5 there as somebody who is credible and whose word 03:20
6 you can count on, none of these things come to
7 mind when we're talking about Danny Grand.

8 Q. It sounds like there's an awful lot of
9 animus there. Is that --

10 A. I wouldn't call it animus. I would just 03:21
11 call it the collective experience of working -- of
12 the encounters I've had with Mr. Grand, starting
13 with his visit to me at city hall and going on
14 forward.

15 Q. Okay. Well, let's -- I really want to 03:21
16 get to the bottom of this, because you use some
17 serious allegations that you've made here, which I
18 haven't heard before.

19 You said Mr. Grand doesn't respect the
20 law. 03:21

21 So, you know, just slow down and give me
22 some specific examples of Mr. Grand's failure to
23 respect to law.

24 A. You know, I think when he's been told by
25 the board of zoning appeals, you know, not to pour 03:21

1 concrete in a particular area, and instead he 03:21
2 throws gravel down and parks on it anyway, that's
3 a prime example.

4 Q. So he poured concrete and then threw
5 gravel on it? 03:22

6 A. He did not pour concrete.

7 Q. Okay. He did not pour -- okay -- he did
8 not pour concrete, but he put gravel down.

9 I have to tell you just -- it's a pretty
10 big leap from to that to say you are dealing with 03:22
11 a man who doesn't respect the law, who lies, who's
12 dishonest, that seems fairly trivial.

13 Why is that such a big thing that sticks
14 in your crawl?

15 A. You asked me for an example. 03:22

16 Q. Okay. Fair enough.

17 What other examples can you --

18 A. Well, you know, I would just refer to
19 his entire record before the board of zoning
20 appeals. You know, I don't have it memorized, I'm 03:22
21 not going to give you blow by blow, but there's
22 minutes to all of those meetings, and I think
23 anybody could review those.

24 And for that matter, if you're deposing
25 every member of the planning commission, I suppose 03:22

1 you could also depose every member of the board of 03:22
2 zoning appeals, as well, who has had to hear from
3 Mr. Grand in his numerous applications and
4 misleading statements he has made.

5 And, you know, when it came to -- you 03:23
6 know, one of the things that he did, apparently,
7 was he had come before the board of zoning appeals
8 to ask permission for concrete in excess of the
9 amount that is permitted for his property.

10 He was denied at that point, or it was 03:23
11 tabled, one or the other.

12 He then went to the building department
13 and got a permit for that, about that. As a
14 matter of right, he could pour and then poured it.

15 But then went back to the board of 03:23
16 zoning appeals with an amended application, saying
17 he only wanted to pour this much concrete.

18 Omitting the fact that he had obtained a permit to
19 pour the other concrete. And then told the board
20 of zoning appeals he was no longer seeking to pour 03:23
21 this other concrete. But what he omitted was that
22 he had actually poured it and it had already been
23 poured and he was no longer counting that among
24 the concrete he wanted to pour because he had
25 already poured it. It's a material omission. 03:24

1 So, you know, this is the kind of thing 03:24

2 I'm talking about. You know, Mr. Grand seems
3 willing to game the system.

4 You know, he was having a problem with
5 construction rubble at the house on Miramar. And 03:24
6 he was noticed that he needed to get rid of it.

7 And, you know, what he did to get rid of
8 it was he took it over to another house that he
9 owned, another property in South Euclid.

10 And then I hear from their housing 03:24
11 director that they're having to cite him for
12 construction debris that's over at that house.

13 And, you know, it seemed as if that debris
14 appeared at the same time, coincidentally, that
15 debris disappeared from the house on Miramar. 03:24

16 So, you know, comparing notes with the
17 housing director of the City of South Euclid,
18 it's like, oh, well, that's very interesting. So
19 instead of disposing of it properly, he took it
20 from one property of his and dumped it at another 03:25
21 property.

22 I mean, this is the kind of stuff that,
23 you know, reputable people don't do that kind of
24 thing. This is dishonest. It is.

25 Q. Slow down, because I really -- there's a 03:25

1 lot in what you just said, but I want -- so the 03:25
2 specific -- because I think the allegation was or
3 the accusation was that he made numerous
4 misstatements under oath and, you know, you're
5 here today under oath. 03:25

6 A. I am.

7 Q. I'm not really interested in what other
8 people said, what -- I'm actually not interested
9 in what -- I am interested in what you said.

10 So I'm asking you, under oath, what are 03:25
11 these numerous misstatements that you know of.
12 Okay. You mentioned the whole concrete story. To
13 be honest with you, that is above my pay grade.

14 But can you please give me some specific
15 examples, that you are aware of, material 03:25
16 misstatements to the board of zoning appeals?

17 A. Well, I think just went over the one
18 regarding the pouring of concrete.

19 Q. Okay. Aside from the pouring of
20 concrete. 03:26

21 A. Well, I think that would be the big one
22 right there.

23 Q. Is there anything else to support your
24 allegation? Because you said he made numerous
25 misstatements. Numerous is more than just one or 03:26

1 two, numerous is many misstatements.

03:26

2 Do you want to withdraw that?

3 But if your testimony is he made

4 numerous misstatements to the board of planning

5 commission, and that's why you thought he wasn't

03:26

6 credible when he said he wanted to pray in a

7 certain way --

8 A. He didn't say he wanted to pray in a

9 certain way. I don't know where you're getting

10 that from. You are making assertions that I don't

03:26

11 think have been established here.

12 Q. Okay. Well, I'm trying to get

13 descriptions -- I'll withdraw that.

14 Let's go back to the numerous

15 misstatements Mr. Grand has made under oath, that

03:26

16 you were aware of. I'll list them down and then

17 that will help me with our deposition of other

18 people.

19 So I understand he made a big

20 misstatement about pouring concrete. I got it.

03:27

21 What else?

22 A. You know, another one may be that he had

23 built this room on his house to be a music room.

24 And then he has made this statement

25 where he apparently has a revelation that this is

03:27

1 actually now going to be the site of his shul or 03:27
2 synagogue or house of worship.

3 And, you know, I don't know that -- you
4 know, what I'm reading elsewhere, that he had
5 designed this room to be used for that purpose, 03:27
6 and then, you know, he has gone to our building
7 department or our architectural review board and
8 described it as being a music room, to be meant
9 for his private personal use for his drum kit,
10 which has been -- and the room has been 03:27
11 soundproofed and so on. You know, none of that --
12 it doesn't seem as of that can all be true.

13 Q. And you didn't hear the testimony at the
14 hearing that some neighbors, in fact, had heard
15 him playing his drums, and that, you know, they 03:28
16 heard him several times, and that, you know, the
17 soundproofing may not have been as perfect as he
18 hoped it would be. You didn't hear that
19 testimony?

20 A. I may have, but I don't recall it just 03:28
21 now, but that's not what I was getting at.

22 I was getting at the fact that he had
23 represented to the city that this was to be his
24 music room, and then he was turning it into
25 something else. And then there has been 03:28

1 representations to us that it was always intended 03:28
2 to be a place of worship.

3 Q. Hold on one second. So A couple of
4 things you said there.

5 So you said he had originally had 03:28
6 designs, this was Mr. Grand, to make his -- this
7 recreation room a prayer room? And you have seen
8 these designs, the original designs that he
9 then -- I guess you're saying he hid from the BZA?

10 A. I'm not saying designs in the form of 03:28
11 blueprints. I'm talking about representations
12 that he and his lawyers have since made and
13 throughout this litigation, that that room was
14 always intended to be his prayer room. That's not
15 what he told the city. 03:29

16 Q. And specifically, what are you referring
17 to when you say he has made the representation he
18 always intended that to be a prayer room?

19 A. I believe that was in one of your
20 letters, sir. 03:29

21 Q. No, I think that's a misstatement.

22 I think there seems to be a lot of --
23 again, confusion here, so regarding misstatements.
24 So you think that -- I was just trying to get a
25 list of misstatements. 03:29